confidential information and reporting (core)

Note to tenderers: Attachment E will consist of the successful tenderer’s response to this draft Attachment and any negotiated adjustments.

The Commonwealth’s policy on the identification of Confidential Information, including the ‘Confidentiality Test’, is contained on the Department of Finance (DoF) website at

* <https://www.finance.gov.au/government/procurement/buying-australian-government/confidentiality-throughout-procurement-cycle>

The following four criteria comprise the ‘Confidentiality Test’, and must all be met before commercial information will be considered to be Confidential Information:

a. Criterion 1: The information to be protected must be specifically identified;

b. Criterion 2: The information must be commercially sensitive;

c. Criterion 3: Disclosure would cause unreasonable detriment to the owner of the information or another party; and

d. Criterion 4: The information was provided with an express or implied understanding that it would remain confidential.

The period of confidentiality must be specified for each item (eg for the period of the Contract, a period specified in the Contract). It should not be for an unlimited period.

Pricing provisions in Attachment B must only be listed in Attachment E if they meet the Confidentiality Test.

Note to drafters: Drafters must review their draft Contract to determine if it contains commercial information that meets the Confidentiality Test. Drafters should then review the examples provided below, prior to release of the RFT, and complete the tables as appropriate. Commercial information claimed to be confidential must be assessed against the Confidentiality Test and only information that meets this test can be included in this Attachment E. Only the information in Attachment E can be considered for reporting confidentiality provisions on AusTender and for Senate Order 192.

| Item | Clause Title | Reason for classification | Party for whom the information is confidential | Period of confidentiality |
| --- | --- | --- | --- | --- |
| Confidentiality (Contract) | | | | |
| COC, for example | | | | |
| 1. *Clause 10.7* 2. *(i.e. if not standard template liability regime)* | 1. *Liability Caps* |  | 1. ***Commonwealth / Contractor*** |  |
| 1. *Any tailored clauses or any confidential clauses inserted in the contract additional to the template clauses* | *(Insert any clauses which are not standard template clauses and that meet the DoF Confidentiality Test)* |  |  |  |
| Attachments, for example | | | | |
| 1. *Attachment B* | 1. *Pricing and Payments* 2. *(Identify specific clause, table or section)* |  | 1. ***Contractor*** |  |
| 1. *Attachment D* | 1. *Technical Data & Software Schedule* |  | 1. ***Contractor*** |  |
| Confidentiality (Outputs) | | | | |
| 1. *Information obtained or generated in performing the contract* | 1. *(Insert name of document, including specific section/s)* |  | 1. ***Contractor / Commonwealth*** |  |